its size and the amount of business done are all important factors. Applying these tests to the ordinance in the case under discussion, and considering the circumstances, the cases would seem to support the dissenting opinion.

F. B. F.

"SIC UTERE TUO UT ALIENUM NON LAEDAS."—By sanction of judicial opinion, the expression that the rightful use of one's own property cannot be a legal wrong to another; and, if damage happens, it is *damnum absque injuria,* has long been recognized, at least in the abstract, as a truism. As a proposition generally accepted, it may be stated that every man has a right to the natural use and enjoyment of his own property; and if, while lawfully in such use and enjoyment, without malice or negligence on his part, an unavoidable loss occurs to his neighbor, it is damage without any legal wrong. However, this principle has limitations. The courts are not disinclined to modify it when exigencies arise which would result in injustice, were it laid down as a hard and fast rule. Thus, in a recent case, the pumping of contaminated water from a coal mine into a stream used by the plaintiff for domestic purposes, rendering it unfit for use, the defendant coal company was held liable for damages, although such disposal of the water was necessary to the operation of the mine. *H. B. Bowling Coal Co.* v. *Ruffner* (1907), — Tenn. —, 100 S. W. Rep. 116.

The court looked upon the pollution of the stream as an invasion of an established right, such as will, in general, *per se,* constitute an injury for which damages are recoverable, and based its decision upon the broad ground that it is not permissible, under the facts involved, for a man to use his own property so as to injure the property of his neighbor. A contrary view has become the settled doctrine in Pennsylvania, set forth in the leading, but much criticised, case of *Sanderson* v. *The Pennsylvania Coal Co.,* 113 Pa. 126, 6 Atl. 457. S. purchased a tract of land in the coal regions, upon which he erected a handsome residence. One of the principal inducements to the purchase was that a stream of pure mountain water ran through the tract. This stream was actually used by him for culinary, bathing and other purposes. Shortly after the improvements were completed, defendants opened a coal mine above the land, the water from which so polluted the stream as to render the water unfit for use. The court held that the land on the lower level owed a natural servitude to that above in respect of receiving, without compensation by the owner, the water naturally flowing from it, and a pollution of the stream by the running into it of acidulated water from the mine was *damnum absque injuria,* where the stream formed the natural drainage of the basin, and the mine was conducted in the ordinary and usual mode of mining. The decision appears to have been founded upon expediency, and it would seem that its extreme views were justified by the peculiarity of local conditions. The case presents special circumstances as regards the great relative value of the minerals as compared with the surface of the surrounding country. It was followed, the next year, by another Pennsylvania case, and the doctrine sustained, that no recovery can be had by a lower against an

upper riparian proprietor for pollution of the water of the stream by pumping water from a mine in its natural condition, where the impurities are not due to artificial causes. *Long* v. *Trexler,* 5 Pa. Sup. Ct. 456, 8 Atl. 620. Also see *Merrifield* v. *Worcester,* 110 Mass. 216; *Frazier* v. *Brown,* 12 Ohio St. 294; *New Boston Coal Co.* v. *Pottsville Water Co.,* 54 Pa. St. 164; *Gibson* v. *Puchta,* 33 Cal. 310; *Prentice* v. *Geiger,* 74 N. Y. 341. That liability cannot be attached to the bare exercise of a legal right, if the party injuring confined himself strictly to its exercise, and if the injury done could not have been avoided except by abandoning the right, would appear to be a just and equitable rule of law. To have adopted a different rule in *Sanderson* v. *Coal Co.* would probably have enjoined the operation of the mine altogether, or have prevented mining except by the general consent of all parties affected. An early California case had already given expression to the same view,—that the adulteration of the water of a stream in its reasonable use for mining purposes was, as to the parties below entitled to the water, an injury without consequent damage. *Bear River & A. W. & M. Co.* v. *N. Y. Mining Co.,* 8 Cal. 327, 68 Am. Dec. 325.

The case at bar repudiates the doctrine of the Pennsylvania cases, and finds but little in the shape of judicial opinion to support it; and cannot discover, in the enormous value of the mining interests in Pennsylvania, a sufficient legal ground for allowing the proprietor of a mine so to work his minerals for his own profit as to destroy or greatly injure another's property by subjecting it to the burden of receiving water impaired in quality, without payment of compensation for the injury done. And the position has strong support both in England and in this country. *Mason* v. *Hill,* 5 B. & A. 1; *Acton* v. *Blundell,* 12 M. & W. 324; *Smith* v. *Fletcher,* L. R. 7 Ex. 305; *Baird* v. *Williamson,* 15 C. B. (N. S.) 375; *Rylands* v. *Fletcher,* L. R. (3 H. L. 330) ;*Pennington* v. *Coal Co.,* 5 Ch. Div. 769; *Tenn. Coal Co.* v. *Hamilton,* 100 Ala. 252, 14 South. 167; *Beach* v. *Sterling Iron & Zinc Co.,* 54 N. J. Eq. 65, 33 Atl. 286; *Iron Co.* v. *Tucker,* 48 Ohio St. 41. Again, courts readily act upon the proposition that "Riparian owners have, also, a natural right to have natural streams flow unimpaired in quality as well as quantity; and any use of the stream by one proprietor, which defiles or corrupts it to such a degree as essentially to impair its purity and usefulness for any of the purposes to which running water is usually applied, is an invasion of private right for which those injured thereby are entitled to a remedy." GOULD, WATERS, § 219; *Woodward* v. *Worcester,* 121 Mass. 245; *Richmond Mfg. Co.* v. *Atlantic De Laine Co.,* 10 R. I. 106; *Lewis* v. *Stein,* 16 Ala. 214; *Townsend* v. *Bell,* 24 N. Y. Supp. 193; *O'Riley* v. *McChesney,* 3 Lans. 278, 49 N. Y. 672; *Miss. Mills Co.* v. *Smith,* 69 Miss. 299; *State* v. *Kendall,* 38 Neb. 817. The doctrine emphasized is, that there must be one rule of law for all men, and by that rule all men's rights must be tried and tested; relaxation of legal liabilities and remission of legal duties in one direction would logically be followed by the same looseness in every other direction, resulting in an invasion of individual right which would be intolerable.

No test which satisfies the reason of the law in all respects can be made applicable to all cases. In view of the conflict of authority, rules of substan-

tial justice must be looked to in each case for an adjustment of the important problems growing out of the varied interests of the riparian owner and those of his neighbor engaged in the operation of his mine; and upon consideration of each individual controversy, except when the questions involved are qualified by the existence of peculiar conditions, the duty of the owner of property may be fixed within the limits of the maxim at the head of this article.

G. A. I.

INTERFERENCE WITH THE FORMATION OF CONTRACTS.—It is an open question as to what extent one person may lawfully interfere in the formation of contracts by others. The boycott and the blacklist are examples of such attempted interference made common in recent years by the violent strife between organized capital and organized labor. Minnesota has undertaken to settle one phase of this question by statute (Rev. Laws 1905, § 5097), which a recent case (*Joyce* v. *The Great Northern Ry. Co.* (1907), 110 N. W. Rep. 975) has interpreted and applied.

The portion of the statute here material is as follows: "It shall be unlawful for any two or more employers, or any two or more corporations, to combine or to agree to combine or confer together for the purpose of interfering with or preventing any person or persons from procuring employment, either by threats, promises, or by circulating or causing to be circulated blacklists, or for the purpose of procuring and causing the discharge of any employee or employees by any means whatsoever." Plaintiff in the case above cited was employed by the Union Depot Company as a track repairer. The defendant with other railway companies was a tenant of the Depot Company, paying rent for the use of its property, and had the exclusive control of three tracks leading thereto. Plaintiff, while repairing a track, was struck by defendant's engine, through the negligence, as he alleged, of defendant's engineer. Before he was recovered sufficiently to resume work, defendant's claim agent wrote to the Depot Company requesting that it refuse to take plaintiff on again unless he would release the railway company from all liability for the injury, in return for the payment of his medical expenses during his disability. The Depot Company acceded to the defendant's request and, Joyce being unwilling to sign the release, was refused reemployment. Thereupon he brought suit against the railway company in two separate causes of action, (1) for injury to his person caused by the alleged negligence of defendant's servant; (2) for the wrongful conduct of defendant in preventing his securing employment from the Union Depot Company. The trial court dismissed the second cause of action, and from an order denying a new trial as to that, plaintiff appealed. The attention of the court was first called to the statute by one of its members in consultation and additional briefs were called for.

The defendant contended: First, the sole object of the statute was to prevent conspiracy on the part of employers, designed to coerce employees, and the evidence here did not disclose a conspiracy. The court held, however, that the evident intent of the statute was to remedy the evils arising